

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

2006 NOV -6 P 4: 59

CLERK 
SO. DIST. OF GA.

SPENCER S. PAYNE,

Petitioner,

v.

JOSE VASQUEZ, Warden,

Respondent.

CIVIL ACTION NO.: CV206-050

ORDER

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Payne alleges that it is "reasonable to conclude" that the Eleventh Circuit Court of Appeals did not consider Leocal v. Ashcroft, 543 U.S. 1, 125 S. Ct. 377, 160 L. Ed. 2d 271 (2004), and Clark v. Martinez, 543 U.S. 371, 125 S. Ct. 716, 160 L. Ed. 2d 734 (2005), in reaching its decision in Brown v. McFadden, 416 F.3d 1271 (11th Cir. 2005). Payne also alleges that the Bureau of Prisons' application of Program Statement 5880.28 has increased his sentence by 140 days.

Payne's Objections are without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Payne's petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DENIED**. The Clerk of

Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 6th day of November, 2006.



JUDGE, UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA